

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MIRLA PALMA,

No. C-08-4780 MMC

Plaintiff,

**ORDER DENYING PLAINTIFF'S MOTION  
FOR PERMISSION TO FILE MOTION  
FOR RECONSIDERATION; VACATING  
CASE MANAGEMENT CONFERENCE**

v.

HOMEcomings, et. al.,

Defendants

By order filed December 29, 2008, the Court dismissed plaintiff Mirla Palma's Second Amended Complaint ("SAC"), for the reason such plaintiff failed to state therein a claim upon which relief could be granted, and dismissed the action, finding that affording plaintiff further leave to amend would be futile. In said order, the Court also observed that the SAC was subject to being stricken, because plaintiff had failed to file a motion to amend; the Court nonetheless "exercise[d] its discretion to consider the SAC on the merits, in the interests of judicial economy." (See Order, filed December 29, 2008, at 1.)

Now before the Court is plaintiff's "Motion for Permission to File a Motion for Reconsideration," filed January 6, 2009. Plaintiff, acknowledging therein that she should have sought permission to file the SAC, seeks permission to file a motion "so that she may file the amended second amended complaint." To the extent plaintiff is seeking leave to file the SAC, the motion is hereby DENIED as moot, because the Court, as noted, did consider

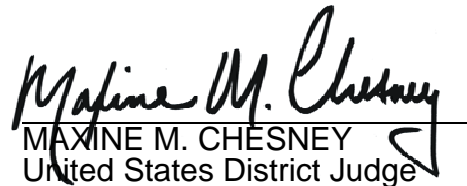
1 the SAC on its merits and did not strike the SAC. To the extent plaintiff is seeking leave to  
2 amend the SAC, i.e., to file a Third Amended Complaint, the motion is hereby DENIED, as  
3 plaintiff has failed to show any cognizable basis exists to reconsider the Court's finding that  
4 further amendment would be futile.

5 Also before the Court is plaintiff's "Affidavit in Support of Opposition to [Defendants']  
6 Motion to Dismiss for Failure to State a Claim," filed January 6, 2009. Defendants,  
7 however, have not filed a motion to dismiss.

8 Finally, in light of the final judgment entered December 29, 2008, the February 20,  
9 2009 Case Management Conference is hereby VACATED.

10 **IT IS SO ORDERED.**

11  
12 Dated: January 13, 2009

  
MAXINE M. CHESNEY  
United States District Judge